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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,378	04/30/2007	Erik Nilsson	1918	8309
20676	7590	07/06/2009	EXAMINER	
ALFRED J MANGELS 4729 CORNELL ROAD CINCINNATI, OH 452412433				RUSH, KAREN KAY
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
07/06/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/587,378	NILSSON, ERIK	
	<b>Examiner</b>	<b>Art Unit</b>	
	KAREEN RUSH	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 April 2007.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 30 April 2007 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/30/2007

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 7, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Cornell (6206278).

a. Regarding claim 1, Cornell teaches a beverage packaging unit (Fig. 33) that includes an opening through which the beverage can be drunk (Fig. 34 the opening where member 926 is inserted into the beverage package). The beverage packaging unit comprises a parallelepipedal packaging unit (Fig. 33) including a hollow box-like body (Fig. 33 about 935) and a closure element (Fig. 34 at 970). One corner of the hollow box-like body is bevelled (Fig. 33 about 930B) to form a triangular surface on the box-like body. A tubular part (Fig. 32 at 952) extends from the triangular surface and which includes an opening (Fig. 32 at 974). The closure element includes a cavity (Fig. 34 about 970) for receiving the tubular part. The packaging unit includes mutually co-acting fastener means (Fig. 32 about 972 and 958) on the tubular part and within the closure element cavity. The fastener means serves to removably retain the closure element on the tubular part so that the box-like body and the closure element together form a parallelepiped (Fig. 33). The Cornell reference DIFFERS in that it does not

specifically include generally pyramidal closure as claimed as claimed. Attention, however, is directed to Theobald, which discloses another beverage package.

The beverage package contains a generally pyramidal closure. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cornell by employing a pyramidal closure, in view of the teachings of Theobald, in order to accommodate the tubular part that happens to increase in diameter as it gets closer to the surface and in order to have a secure tight fit around the tubular part.

Regarding claim 2, the closure element is rotatable relative to the tubular part (Fig. 32).

Regarding claim 3, a tube (Fig. 32 at 920) that extends through the tubular part and down into the interior of the box-like body for beverage dispensing.

Regarding claim 5, the tube is expandable at a location spaced outwardly (Fig. 34) from the tubular part.

Regarding claim 7, the fastener means includes screw threads (Fig. 32 about 972 and 958).

Regarding claim 9, the tubular part extends outwardly sufficiently from the triangular surface for a person to place his/her lips around the tubular part and drink from the box-like body (Fig. 31 about 950).

Regarding claim 10, the closure element is in sealing abutment with an outer end (Fig. 32 at 954) of the tubular part and with the triangular surface.

3. Claims 1, 3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cornell (6206278).

b. Regarding claim 1, Cornell teaches a beverage packaging unit (Fig. 13) that includes an opening through which the beverage can be drunk (Fig. 13 about 354). The beverage packaging unit comprises a parallelepipedal packaging unit (Fig. 13) including a hollow box-like body (Fig. 13 about 335) and a closure element (Fig. 13 at 356). One corner of the hollow box-like body is bevelled (Fig. 12 about 352) to form a triangular surface (Fig. 12 about 310) on the box-like body. A tubular part (Fig. 13 at 354) extends from the triangular surface and which includes an opening (Fig. 13 about 354). The closure element includes a cavity (Fig. 13 about 360) for receiving the tubular part. The packaging unit includes mutually co-acting fastener means (Fig. 12 about 352) on the tubular part and within the closure element cavity. The fastener means serves to removably retain the closure element on the tubular part so that the box-like body and the closure element together form a parallelepiped (Fig. 13). The Cornell reference DIFFERS in that it does not specifically include generally pyramidal closure as claimed as claimed. Attention, however, is directed to Theobald, which discloses another beverage package. The beverage package contains a generally pyramidal closure. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cornell by employing a pyramidal closure, in view of the teachings of Theobald, in order to accommodate the tubular part that happens to increase in diameter as

it gets closure to the surface and in order to have a secure tight fit around the tubular part.

Regarding claim 3, a tube (Fig. 13 at 354) that extends through the tubular part and down into the interior of the box-like body for beverage dispensing.

Regarding claim 4, a tube (Fig. 13 at 320) extends through the tubular part down to a bottom (Fig. 13 about 320) of the box-like body.

Regarding claim 6 the fastener means includes a snap-lock connection (column 7, lines 3-5).

Regarding claim 8, an outer end of the tube includes a snap lock (column 7, lines 3-5) that co-acts with the closure element to serve as a connection (Fig. 12 about 352).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Xuan reference discloses a beverage package having a straw. The Chang reference discloses a package having a drinking straw. The Perryman reference discloses a package having a drinking straw. The Murphy reference discloses a package having a drinking straw. The Iodice reference discloses a package having a drinking straw. The D'Alonia reference discloses a package having a drinking straw. The Bettle reference discloses a package having a drinking straw. The Gu reference discloses a package having a drinking straw. The Theobald reference discloses a package having a drinking straw. The Cone reference discloses a package having a drinking straw.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREEN RUSH whose telephone number is (571)270-5611. The examiner can normally be reached on Monday-Friday (8:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony D Stashick/  
Supervisory Patent Examiner, Art  
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K.R.  
AU:3781

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